

DEVIN DERHAM-BURK #104353  
CHAPTER 13 STANDING TRUSTEE  
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## Trustee for Debtor(s)

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5**

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this Plan for the following reasons:

- Pursuant to the review of the pay advices provided it appears that the Debtors average monthly income is approximately \$4,065.02 not \$3,187.60 and her average monthly withholdings is approximately \$1,074.01 not \$871.85 as listed on Schedule I. The Debtor must amend Schedule I & J accordingly. Because of this inconsistency, the Trustee cannot determine whether the plan is feasible under 11 U.S.C. § 1325(a)(6). NOTE: It appears the debtor receives commission income that have been omitted.

2. The Debtor has failed to comply with 11 U.S.C. § 521(a)(1)(B)(iv) because the Debtor has failed to provide the Trustee with a copy of her payment advice dated on or about August 24, 2018. If the Debtor cannot provide a copy of the payment advice, a declaration signed by the Debtor under penalty of perjury must be provided pursuant to General Order 32 of the United States Bankruptcy Court for the Northern District of California. Pursuant to the order, the declaration must set forth the reasons that the pay advice is unavailable and should state the Debtor's estimate of payments received within the 60 days before the petition date and provide other evidence, if any, of the payments received.
3. In order to assist the Trustee in determining whether the disposable income test in 11 U.S.C. §1325(b)(1)(B) and/or the feasibility test in 11 U.S.C. §1325(a)(6) is met, the Trustee requests that the Debtor provide her with a copy of each federal and state income tax return and W-2 form required under applicable law with respect to each tax year of the Debtor's ending while the case is pending confirmation. The tax return shall be provided to her at the same time it is filed with the taxing authority.
4. The Trustee questions the feasibility of the Debtor's Plan pursuant to 11 U.S.C. § 1325(a)(6). Pursuant to the Debtor's testimony at the Meeting of Creditors held October 10, 2018 her alimony income will end this month. The Debtor will have a deficit in her budget of \$731.25 per month, after she makes her plan payment of \$75.00 with this income.

Dated: October 17, 2018

/S/ Devin Derham-Burk

## Chapter 13 Trustee

## **CERTIFICATE OF SERVICE BY MAIL**

I hereby declare that I am over the age of 18 years, not a party to the within cause; my business address is 983 University Ave., Bldg. C-100, Los Gatos, CA 95032. I served the within Objection to Confirmation, by placing same in an envelope in the U.S. Mail at Los Gatos, California on October 18, 2018. Said envelopes were addressed as follows:

DORIA YVETTE FRIAS  
1052 AUDUBON DR  
SAN JOSE, CA 95122

THE MLNARIK LAW GROUP INC  
2930 BOWERS AVE  
SANTA CLARA, CA 95051

/S/ Clotilde Costa